

January 10, 2019

Mr. Henry Leskinen
Eco-Science Professionals, Inc.
P O Box 5006
Glen Arm, Maryland 21057

Re: Wadkins Construction Company
5719 Ranelagh Rd
Forest Conservation Variance
Tracking # 06-19-2893

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on January 8, 2019. This request proposes to remove two specimen trees and impact the critical root zones of three additional specimen trees on site for the development of a lot on a proposed subdivision. The site is currently improved with one single family dwelling and driveway and the applicant wants to create a second lot. There are six specimen trees on site. The two specimen trees proposed for removal are in poor condition; the three specimen trees that will be impacted are in fair condition. The specimen tree to remain is in good condition. No forest will be impacted by the proposed subdivision.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. A single family dwelling already exists on site and thus would not deprive the petitioner of beneficial use of his property. Therefore, we find that this criterion has not been met.

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The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The site contains six specimen trees spread throughout a small property. The five specimen trees will be impacted, including two for removal, because their location presents difficulties in developing the site and therefore the circumstances here are unique and not related to the conditions of the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The property is surrounded by residential development. The proposal to remove two specimen trees and impact three additional specimen trees as part of the proposed development of the site will not change the character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The new construction will meet all sediment and erosion control requirements during construction. No wetlands, wetland buffers, or forest will be impacted by the development. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not removed the specimen trees or started construction. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. The proposal is to allow the subdivision of an existing lot into two lots without any other impacts to resources. Mitigation for the removal of the specimen trees will be required. No forest will be impacted. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the variance request is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code contingent with the following conditions:

1. Add the following note to all plans for this project: "A Forest Conservation Special Variance was approved by the Baltimore County Department of Environmental Protection and Sustainability to allow the removal of two

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specimen trees and to impact three specimen trees. Mitigation was accomplished through the payment of a fee-in-lieu.”

2. A fee-in-lieu of \$4,380.20 must be paid for specimen tree impact prior to the approval of any permits.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

If you have any questions regarding this correspondence, please call Ms. Regina Esslinger at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/rae